



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2015

TO: Mayor and Councilmembers

FROM: Operations Division, Waterfront Department

SUBJECT: Introduction Of Ordinance To Establish A Definition For "Vessel" For Craft Berthed, Moored Or Anchored In The Harbor District

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by Amending Section 17.04.010 and Adding Section 17.12.050 Establishing a Definition of "Vessel" for Craft Berthed, Moored or Anchored in the Harbor District.

BACKGROUND:

For years, there has existed an interest among some members of the public in placing man-made floating objects in the Harbor District of the City, especially in Santa Barbara Harbor. Owners of these floating objects ("floating homes") that are designed to remain stationary and never leave their slips, have found ways to meet the Department's "operability" requirement by demonstrating, solely for purposes of passing the test, an ability to maneuver safely under their own power from their point of origin to the open waters of the Pacific and back to their point of origin. Typically, this is done through deployment of small outboard engines, make-shift steering stations and temporary lookouts, all for the purpose of passing a single at-sea test—a purely ceremonial exercise without intent of using the floating object for actual boating purposes.

Berthing, mooring or anchoring these floating objects in the Harbor District directly conflicts with Coastal Act Section 30224Z: "Increased recreational boating use of coastal waters shall be encouraged," and Section 30234: "Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided." Also, the Harbor Master Plan states, "The Harbor shall be a working harbor with priority given to ocean dependent uses, such as commercial fishing and recreational boating."

Finally, using slips for floating homes that remain stationary does not serve the needs of persons on the Department's Slip Waiting List, some of whom have lingered decades on the list awaiting the opportunity to rent a slip and go boating.

DISCUSSION:

In 2013, the United States Supreme Court took up the question of whether all floating homes are "vessels" under Maritime Law. The Court held that not every structure that floats is a vessel. Instead, it held that, "A floating residence is not a vessel... 'unless a reasonable observer, looking to the home's physical characteristics and activities, would consider it to be designed to any practical degree for carrying people or things on water.'"

The Supreme Court's recognition that not all floating objects are "vessels" has provided guidance to staff in developing a workable definition of "vessel" that precludes berthing, mooring or anchoring floating objects not designed or constructed for carrying people or goods over water (e.g. floating residences not intended for ocean travel) in the Harbor District. Working with the City Attorney's Office, staff drafted a definition of "Vessel" to be included in Title 17 of the City's Municipal Code that would serve the purpose of preserving use of the Harbor District for "vessels" that can actually be used for recreational boating or fishing.

There currently exists four floating objects in the Harbor District that do not meet the proposed definition of Vessel, and Waterfront staff consistently fields inquiries for more. The proposed amendment to the Municipal Code will not affect these existing floating homes. Only floating objects attempting to berth, moor or anchor in the Harbor District after December 1, 2015, or the effective date of the Ordinance amendment, whichever is later, will be precluded from doing so.

Additionally, the proposal to add a definition of "Vessel" to the Municipal Code has no effect on the Waterfront Department's liveaboard program.

Staff presented this proposal for discussion at the September, 2013 Harbor Commission meeting, returning to the Commission in September, 2014, earning conceptual approval of a proposed definition for "Vessel". Working with the City Attorney's Office, staff returned to the Commission in September, 2015 with proposed Municipal Code language that would codify these proposals, and recommended City Council approval. The Commission supported that recommendation.

Adoption of the Ordinance is Categorically Exempt under the California Environmental Quality Act, Guidelines Section 15305 (Minor Alteration to Land Use Limitations) and because it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

CONCLUSION:

With adoption of the proposed Ordinance, the City will have, as of the effective date of the Ordinance, the legal means to prevent the berthing, mooring or anchoring of man-made floating objects that do not meet the definition of "Vessel." This, in turn, will advance and protect the City's priority obligations to accommodate recreational boating and commercial fishing.

On November 17th, Ordinance Committee unanimously voted to forward the proposed Ordinance to City Council for introduction.

PREPARED BY: Mick Kronman, Harbor Operations Manager

SUBMITTED BY: Scott Riedman, Waterfront Director

APPROVED BY: City Administrator's Office